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§ 1. DEFINITIONS

For the purpose of this Chapter, the following terms are defined as follows:

- A. **Commercial motor vehicle.** “Commercial motor vehicle” means any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle —
  - Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
  - Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
  - Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
  - Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.
- B. **FMCSA.** “FMCSA” means “Federal Motor Carrier Safety Administration.”
- C. **Motor carrier.** “Motor carrier” means a for hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned

with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B of the Federal regulations adopted and incorporated by reference in this Chapter, this definition includes the terms employer and exempt motor carrier.

- D. **Special agent of the FMCSA.** “Special agent of the FMCSA,” as used in this Chapter, means a motor carrier inspector, state police officer, municipal officer, or sheriff, who has satisfactorily completed a prescribed course of instruction established by the Maine State Police with respect to the Federal regulations adopted and incorporated by reference, with or without State of Maine amendments, into this Chapter.
- E. **State.** “State” means State of Maine.

**§ 2. APPLICABILITY**

This regulation applies to any interstate or intrastate common, contract, and private motor carrier that transports passengers or property in Maine.

**§ 3. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS, WITHOUT STATE AMENDMENTS**

Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter, without State amendments:

- A. Title 49 Parts 40, 382, 390, 393, and 396, and Appendices to Subchapter B of the Code of Federal Regulations, as amended ~~and as of February 2011~~;
- B. Title 49 Part 392, §§ 392.1 through 392.71 of the Code of Federal Regulations, as amended ~~and as of February 2011~~; and
- C. Title 49 Part 392, §§ 392.80 and 392.82 of the Code of Federal Regulations, as amended ~~and as of February 2012~~.

**§ 4. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS, WITH STATE AMENDMENTS**

Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter (1) Title 49 Parts 383, 391, and 395, and Appendices to Subchapter B, of the Code of Federal Regulations, as amended ~~and as of February 2011~~, with the following State amendments, and (2) Title 49, Section 391.41(b)(12)(i) as amended ~~and as of February 2012~~, with the following State amendments:

- A. **Hazardous Materials**
  - 1. There are no exemptions for motor carriers, vehicles, or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 CFR, Subchapter C, Pt. 172.

113 B. As to 49 CFR Pt. 383, the following amendments are made:

- 114  
115 1. Intrastate motor carriers, vehicles, and drivers to whom this  
116 Chapter applies *are only subject to* 49 CFR §§ 383.1(a), 383.3(a),  
117 383.5, 383.21, 383.23(a), 383.23(a)(2), 383.23(c), 383.31, 383.33, 383.37,  
118 383.51, 383.52, 383.53, and 383.72.

119  
120 C. As to 49 CFR Pt. 391, the following amendments are made:

- 121  
122 1. Intrastate motor carriers, vehicles, and drivers to whom this  
123 Chapter applies that operate less than 100 air miles from their  
124 regular place of business *are only subject to* 49 CFR §§ 391.13,  
125 391.15, 391.23(a), 391.23(a)(1), 391.25(a), 391.25(b), 391.27(a),  
126 391.27(b), ~~and~~ 391.41(b)(12)(i), and 391.41(b)(12)(i).

127  
128 Documents and records obtained from inquiries made pursuant to  
129 49 CFR §§ 391.23, 391.25, and 391.27 must be maintained on file by  
130 the motor carrier for a period of two years.

- 131  
132 2. Intrastate motor carriers, vehicles, and drivers to whom this  
133 Chapter applies that operate more than 100 air miles from their  
134 regular place of business *are exempt from* 49 CFR §391.11(b)(1).  
135 Intrastate drivers to whom this Chapter applies that operate more  
136 than 100 air miles from their regular place of business must be at  
137 least 18 years old.  
138  
139 3. Drivers to whom this Chapter applies *are exempt from* 49 CFR  
140 §391.41(b)(11).

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142 D. As to 49 CFR Pt. 395, the following amendments are made:

- 143  
144 1. Intrastate motor carriers, vehicles, and drivers to which this  
145 Chapter applies that operate less than 100 air miles from their  
146 regular place of business are exempt from 49 CFR Pt. 395.

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149 **§ 5. ADOPTION AND INCORPORATION BY REFERENCE OF ADDITIONAL**  
150 **FEDERAL REGULATIONS**

151  
152 The Bureau of the Maine State Police hereby adopts and incorporates by reference  
153 into this Chapter Title 49 Part 385 of the Code of Federal Regulations, as amended  
154 and as of February 2011.

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157 **§ 6. QUALIFICATIONS TO ENFORCE THIS CHAPTER**  
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- 159 A. Only special agents of the FMCSA may enforce this Chapter.  
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161 B. Special agents of the FMCSA who are only approved to enforce driver-only  
162 aspects of this Chapter must have reasonable, articulable suspicion to stop a  
163 commercial motor vehicle.  
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166 § 7. SOURCE OF FEDERAL REGULATIONS

167  
168 Copies of the Federal rules adopted and incorporated by reference herein may be  
169 obtained from the following agencies:

- 170  
171 Superintendent of Documents  
172 U.S. Government Printing Office  
173 Washington, D.C. 20402  
174  
175 Maine Department of Public Safety  
176 Bureau of Maine State Police  
177 20 State House Station  
178 Augusta, ME 04333-0020  
179

180  
181 § 8. SEVERABILITY

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183 Should any provision of this Chapter or the application of this Chapter to any  
184 person or circumstance be held invalid, the invalidity does not affect other  
185 provisions or applications of this Chapter that can be given effect without the  
186 invalid provision or application, and to this end the provisions of this Chapter  
187 are severable.  
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191 BASIS STATEMENT

192 This chapter, which applies to any interstate or intrastate common, contract, and private  
193 motor carrier that transports passengers or property in Maine, will ensure that Maine  
194 commercial vehicle rules remain current with the rest of the nation and that Maine’s  
195 roads are safe for the traveling public.  
196

197 The regulation is being amended to:

- 198  
199 1. Clarify that the regulation incorporates by reference the specified parts of the  
200 Federal regulations, as amended;  
201 2. Provide in the regulation that operators for intrastate motor carriers that  
202 operate less than 100 air miles from their regular place of business are subject to  
203 the provisions of 49 Code of Federal Regulations, Section 391.41(b)(12)(i) that  
204 prohibit the operation of a commercial motor vehicle by a person who has  
205 methadone or its metabolite in that person’s body.